



WAGNER, MURABITO & HAO LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

COPY MAILED

APR 19 2004

In re Application of
Anup Bhalla et al.
Application No. 10/668,866
Filed: September 22, 2003
Attorney Docket Number: VISH-819 . DIV

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition filed February 26, 2004, under 37 CFR 1.182 as a petition requesting that the above-identified application be amended to include Figures 8a, 8B and 23C as described in the specification.

The petition is **DISMISSED**.

The application was filed September 22, 2003. However, on December 22, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of September 22, 2003 but advised that Figures 8a, 8B and 23C described in the specification appeared to have been omitted.

In response, the present petition was filed on February 26, 2004, accompanied by two (2) sheets of drawings containing Figures 8a, 8B and 23C.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing Figures were deposited on November 21, 2003, nor request the February 26, 2004, (the date the missing Figure was supplied) filing date. Rather, petitioners seek to amend the drawings by filing a sheet containing new drawings of Figures 8a, 8B and 23C. Amendments to the specification may be entered by the primary examiner without petition so long as the amendment contains no new matter.¹

Accordingly, the petition is inappropriate and is subject to dismissal.

The application will be processed and examined using only the application papers present on the filing date of November 21, 2003. The two (2) sheets of drawings supplied with the present petition will not be processed or examined, but will be retained in the application file.

¹ 37 CFR 1.121(b).

A preliminary amendment adding the sheet containing new drawings of Figures 8a, 8B and 23C should be filed prior to the first Office action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 21, 2003, using the application papers filed on that date.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions